IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

OP.No. 9273 of 2003(D)

PETITIONER:

N.VIJAYAN, VIJAYA BHAVAN,
NANDAN NAGAR, NELLIMMODU -PO,
TRIVANDRUM.

BY ADV. SRI.GEORGE POONTHOTTAM

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT OF TRANSPORT, TRIVANDRUM.

2. THE TRANSPORT COMMISSIONER, TRIVANDRUM.

3. THE REGIONAL TRANSPORT OFFICER, TRIVANDRUM.

4. THE JOINT TRANSPORT OFFICER, PARASSALA.

BY GOVERNMENT PLEADER SRI.BENCHAMIN PAUL.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 04/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P. NO.9293/2003.

APPENDIX

PETITIONER'S EXHIBITS:

P1. COPY OF THE COMPLAINT DTD.17.2.1998.

P2. COPY OF THE OF SOME OTHER VEHICLES' REGISTRATION.

P3. COPY OF THE RELEVANT PAGE OF THE REGISTRATION CERTIFICATE.

P4. COPY OF THE RELVANT PAGE OF REGISTRATION NO.KL 01.B.8724.

P5. COPY OF THE RELEVANT PAGE OF REGISTRATION CERTIFICATE NO.KL-01.M.7099.

Sdk+

///True copy///

P.A. to Judge.

S.SIRI JAGAN, J.

==========

O.P.No.9273 of 2003

==========

Dated this the 4th day of June, 2007

J U D G M E N T

The petitioner purchased an Omni Bus TATA 407/31. When the vehicle was presented for registration as a 12 seater vehicle, which, the petitioner claims that it is, the officers of the 4th respondent registered the same only as a 16 seater vehicle. This, the petitioner submits, is on account of some ill-will the officers of the 4th respondent had towards the petitioner. The petitioner submits that several other similar vehicles had been registered as a 12 seater and the petitioner has been discriminated against in this matter. Therefore, the petitioner seeks appropriate reliefs in the matter.

2. Before going into the question on merits, I have to deal with a formidable objection raised by the respondents as to unexplained delay and

laches on the part of the petitioner in challenging the impugned orders. In the counter affidavit filed on behalf of the 4th respondent, it is specifically stated that the vehicle was registered on 29.3.1997 and the petitioner had not raised any objection regarding registration of the vehicle or payment of tax as a 16 seater vehicle. It is further stated in the counter affidavit that the petitioner was paying tax accordingly without any objection and he had a right of appeal under Section 52 of the Motor Vehicles Act, which also was not availed of by him. According to the 4th respondent, the first time the petitioner filed an application against such registration was on 4.9.2001 producing an order of the Lok Ayukta, before the Deputy Transport Commissioner with a request to reduce the seating capacity from 16 to 12. In answer to this, the learned counsel for the petitioner claims that the petitioner has filed Ext.P1 before the Transport Commissioner on 17.2.1998. Assuming that Ext.P1 has been filed by the petitioner on

17.2.1998 and the same has been received, still the same was after almost a year of the registration of the vehicle. There is also nothing to show that the petitioner had objected to the registration of the vehicle as a 16 seater at any time before Ext.P1 even if it has been received. That being so, the complaint of the petitioner is highly belated and the petitioner has not offered any explanation for the long delay in approaching the appropriate authorities or court. That being so, I am not inclined to exercise my discretionary jurisdiction in favour of the petitioner. Accordingly, the original petition is dismissed.

Interlocutory applications stand closed.

sdk+ S.SIRI JAGAN, JUDGE

S.SIRI JAGAN, J.

==========

O.P.No.9273 of 2003

==========

J U D G M E N T

4th June, 2007